



Due Diligence Requirements for Donations of Conservation Land or Easements to the State of Georgia

Donations of conservation land and easements to the State of Georgia are welcomed gifts that help ensure the future of the State's natural resources for generations to come. In order to ensure that your gift will remain a valuable parcel of conservation land in perpetuity, the State of Georgia requests certain legal documentation at the time of donation.

Mandatory documents include an approved Conservation Easement with baseline report or transfer agreement, a current Property Survey Plat with legal description, a Phase One Environmental Site Assessment and evidence of clear title to the property. If the donor intends to apply for a federal tax deduction or State income tax credit, the donor must also provide a real estate appraisal for the tract(s) being donated. This document contains additional information about the reporting requirements for each of these due diligence items.

Conservation Easement (*not needed for fee-title donations*)

A conservation easement is a legal document that specifies the rights that a donor is giving up and retaining on his or her property. A State agency representative will help landowners determine what rights they would like to donate, and provide a draft easement for review by the landowner. It is recommended, but not mandatory, that landowners consult legal counsel to review the easement terms before executing it.

Part of the conservation easement is a Baseline Documentation Report that serves as a snapshot of existing conditions on the easement property at the time the easement is executed. The Baseline will be used by the State agency to monitor the easement property. Landowners must allow agency personnel to access their property at a time and date convenient to both parties prior to easement execution in order to complete the Baseline.

Property Survey Plat

For all land or conservation easements being donated to the State of Georgia, a current property survey plat is required. At a minimum, the surveyor must (1) be registered by the State of Georgia; (2) draft a recordable plat of the tract(s); and (3) provide a signed "Certificate of Surveyor" that complies with OCGA §§15-6-67 – 69 as amended, and OCGA §§44-4-20 – 31. For landowners donating property or a conservation easement to a qualified entity other than the State and seeking a tax credit from the State, a legal description and/or a plat is acceptable. Any necessary survey costs are typically paid by the landowner, but the State may

share some of the associated expenses when a State agency is receiving a donated conservation easement.

Phase I Environmental Site Assessment

A Phase I Environmental Assessment must be conducted for all lands on which the State of Georgia will hold either a fee-title or easement interest. Assessments must be in accordance with the American Society for Testing and Materials (ASTM) Standard E 1527-00 or ASTM Standard E 2247-02. The landowner has primary responsibility for completing the Assessment, but the State may share some of the associated expenses when a State agency is the easement recipient.

Title Report

Lands where the State is acquiring a fee title or conservation easement interest require evidence of clear title. This typically entails a title report or Attorney's Certificate of Title. The cost of a title search is typically paid by the intended real property interest holder (the State), but information provided by the donor may be required to complete the title report.

Real Estate Closing Costs

Real estate closing costs associated with the legal conveyance of fee title or a conservation easement interest in property may include attorney fees, transfer taxes, recording fees, real estate commissions, and pro rata ad valorem taxes. Real estate closing costs are generally paid by both the donor and donee in a manner consistent with locally accepted protocol.

Monitoring Requirements (*conservation easements only*)

Any State agency that receives a conservation easement must conduct annual inspections of the easement property. There is no cost to the easement donor but the landowner must allow State personnel to access their property in order to conduct these inspections. The State will provide sufficient notice to landowners before visiting their properties, and issue a monitoring letter following their visit.

Appraisal (*only if claiming federal or state tax incentives*):

Donations of qualified easements or conservation land qualify as a charitable contribution deduction on federal income tax forms. Such donations are also eligible for a state income tax credit. If these tax incentives will be sought, an appraisal that meets specific professional standards is required.

The purpose of the appraisal is to develop an opinion of the market value of the fee simple interest or conservation easement interest of the property. At a minimum, appraisal must conform to the Uniform Standards of Professional Appraisal Practice (USPAP) and the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute. Appraisals must also meet the requirements of Section 170 of Title 26 of the United States Code and must contain the following items:

- (1) Purpose, Scope and function of the appraisal.
- (2) Highest and Best use of the property must be stated.
- (3) An adequate description of the physical characteristics of the property being appraised and at least a 5-year sales history of the property.
- (4) All relevant and reliable approaches to value consistent with commonly accepted professional appraisal practices.
- (5) A description of comparable sales with photos and location maps of each comparable.
- (6) A statement of the value of the real property to be acquired, including valuation and analysis of data. In the case of conservation easements, a statement of the value of the property *before and after* the easement is in place.
- (7) The effective date of valuation, date of appraisal, signature and certification of the appraiser all valid within one year of review by the Land Conservation Council.

All appraisers must be Certified General appraisers according to the Georgia Real Estate Appraisers Board. The Georgia Real Estate Appraisers Board establishes standards from time to time under the Real Estate Appraiser Classification and Regulation Act O.C.G.A. § 43-39A-1 through § 43-39A-26 and Rules and Regulations. The appraiser should have experience in appraising the type of property to be acquired (farm, recreational, commercial residential, timber, etc.). The donor is responsible for getting a qualifying appraisal completed in order to receive state and/or federal tax incentives. The State of Georgia requires a copy of the donor's appraisal for donations made to the State but does not confirm its findings.